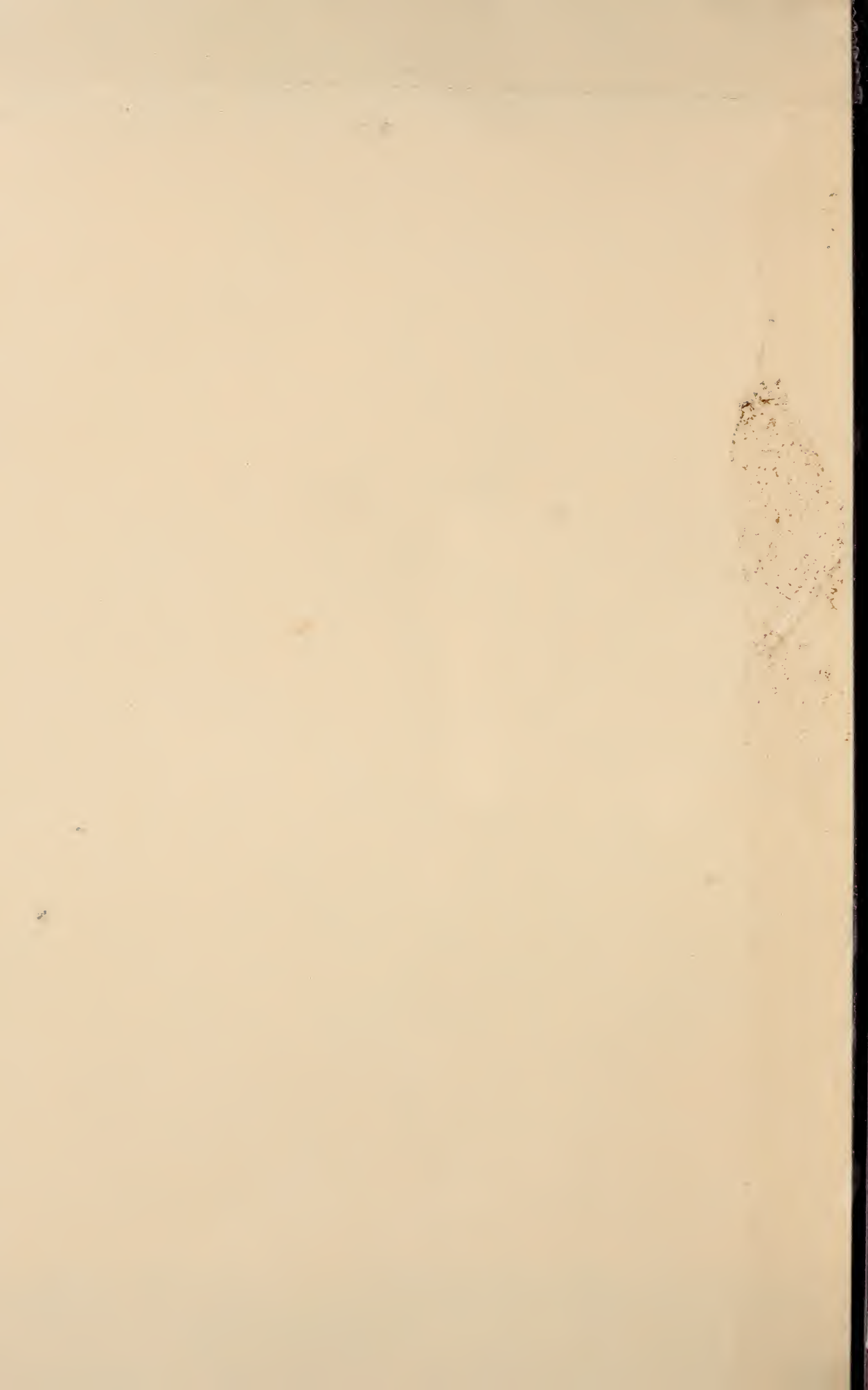


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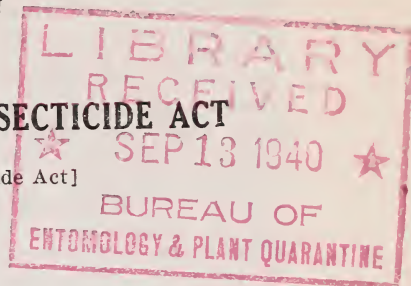
United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT

[Given pursuant to section 4 of the Insecticide Act]

1731-1745



[Approved by the Acting Secretary of Agriculture, Washington, D. C., June 18, 1940]

1731. Misbranding of Pynosol. U. S. v. Pynosol Laboratories, Inc. Plea of guilty. Fine, \$25. (I. & F. No. 2142. Sample No. 60022-D.)

This product possessed a phenol coefficient of less than that stated on the label, and the label failed to bear the required ingredient statements.

On February 23, 1940, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Pynosol Laboratories, Inc., Chicago, Ill., alleging shipment in interstate commerce on or about November 22, 1938, from Chicago, Ill., into the State of New York of a quantity of Pynosol which was a misbranded fungicide within the meaning of the Insecticide Act of 1910.

The article was alleged to be misbranded in that it consisted partially of an inert substance, namely, water, and the name and the percentage amount thereof were not stated plainly and correctly on the label; nor in lieu thereof were the name and percentage amount of each ingredient of the article having fungicidal (bactericidal) properties, and the total percentage of the inert substance or ingredient, stated plainly and correctly on the label. It was alleged to be misbranded further in that the statement "Phenol Co.Eff 18.75 FDA" was false and misleading, and the article was labeled so as to deceive and mislead the purchaser, since it possessed a phenol coefficient of less than 18.75, as determined by the F. D. A. method.

On April 2, 1940, a plea of guilty was entered and a fine of \$25 was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1732. Misbranding of Kotoproof. U. S. v. Universal Chemical Laboratories, Inc. Tried to the court. Judgment of guilty on charge that product was short of the declared volume. Not guilty on charges that product was poisonous and that claims of moth proofing efficacy were false and misleading. Fine, \$25 and costs. (I. & F. No. 2038. Sample No. 50319-C.)

The net contents of the container of this product were less than 1 gallon, the amount declared on the label. The labeling of the article bore a representation that it was harmless to human beings and animals and would mothproof clothes, furs, fabrics, et cetera, which were alleged to be false and misleading.

On May 6, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Universal Chemical Laboratories, Inc., South Bend, Ind., alleging shipment in interstate commerce on or about September 2, 1937, from South Bend, Ind., into the State of Wisconsin of a quantity of Kotoproof which was a misbranded insecticide within the meaning of the Insecticide Act of 1910.

The article was alleged to be misbranded in that the statement, "Contents 1 U. S. gallon," borne on the label, was false and misleading and by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the cans contained less than 1 gallon. The information alleged further that the following statements appearing in the labeling were false and misleading and that by reason thereof the article was labeled so as to deceive and mislead the purchaser: "Kills Moths and Their Larvae Kotoproof The Perfect Moth-Master Moth Proofing Spray Positive Protection for all furs woolens upholstery rugs blankets bathing suits hats suits coats drapes * * * How To Use Kotoproof For Best results use any good moth-proofing spray

gun. Any material made from animal fibre may be safely treated with Kotoproof. Spray liberally and evenly. Hold the spray gun about one foot from the material and cover every inch of the fabric with a fine mist. A cloth or small sponge moistened with Kotoproof and rubbed on seams, pockets, cuffs and flaps helps to insure protection in those places. Furs should be brushed or ruffled up while spraying in order that the spray may reach the base of the fibre. Upholstered furniture may be treated the same as any fabric, except that special care must be taken to impregnate the stuffing. For complete protection it is necessary to use about four pints for a davenport and two to three pints for a chair, depending upon the size. After dry cleaning material should be re-treated with Kotoproof as the dry cleaning chemicals weaken its effectiveness. Steam cleaning or laundering does not affect materials moth-proofed with Kotoproof. * * * Kotoproof kills moths and their larvae and when properly applied renders material moth-proof for a period of one year. Kotoproof may be safely used on furs. It will not spot, stain, or shrink the finest fabrics and does not affect dyes. It is not necessary to cover or protect silk linings. * * * Kotoproof the Perfect Moth-Master Is Thoroughly Safe And Dependable * * * Kotoproof is sold under a binding money-back guarantee to give full satisfaction when used according to directions. Kotoproof cannot harm the finest fabrics and when applied renders material moth-proof for one year. * * * Kotoproof kills moths and their larvae and protects furs, coats, dresses, suits, tropical worsteds, sweaters, felt hats, skirts, sports suits, flannel trousers, bathing suits, golf hose, blankets, babies' woollens, scarfs, mohair covered furniture, cushions, davenports, drapes, rugs, carpets, felt in pianos, automobile robes, automobile rugs, automobile cushions and automobile upholstery against moth infestation. One spraying protects for a full year. Moth Worms Starve To Death on Kotoproofed Materials. * * * Kotoproof is harmless to humans and animals * * * is thoroughly safe."

On November 2, 1939, the case came on for trial before the court in lieu of a jury, and on February 29, 1940, the court handed down the following memorandum opinion:

SLICK, Judge. "The information charges misbranding under the Federal Insecticide Act in that: (1) the product was not a mothproof as represented on the container, (2) the container contained less than was represented, to wit, 1 United States gallon, (3) the product was not harmless to humans and animals and thoroughly safe as represented on the label.

"The evidence as to the first specification was rather conflicting. Several witnesses for the Government made experiments which indicated the article did not render cloth material mothproof. As against this, a number of witnesses testified that they used Kotoproof and found it very satisfactory—no moths appearing after its application. If this were the only specification I would be inclined to say that there is a reasonable doubt as to defendant's guilt.

"On the second specification, however, the testimony shows that the container was 10 percent short of 1 gallon. I cannot agree with counsel for the defendant that this is an immaterial deficiency. Ten percent is a considerable amount to be short in a container advertised to contain 1 full gallon.

"As to the third specification, testimony shows Kotoproof would not be harmless to persons if it were taken into the stomach. It is not advertised, however, as a beverage or as an edible, and I think the clear intent is to say that it is harmless to humans and animals when sprayed as directed. It would be very easy for defendant to change its legend with reference to the harmlessness or safety of the article and say that it is harmless and thoroughly safe when applied according to directions, but that it is harmful if persons or children are permitted to take it into the stomach.

"On the second specification, however, that the container contained 1 gallon, I feel that 10 percent less than 1 gallon is at least a technical violation of the act. For this reason I find the defendant guilty and assess a fine of \$25 and costs."

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1733. Adulteration and misbranding of Ansbacher's Ansbach and Ansbacher's Ansbach Dust. U. S. v. Ansbacher-Siegle Corporation. Plea of guilty. Fine, \$400. (I. & F. No. 2108. Sample Nos. 28961-D, 29692-D, 29700-D, 34615-D.)

Ansbacher's Ansbach contained smaller proportions of active ingredients, calcium arsenate and calcium arsenite combined, a larger proportion of inert ingredients, and a smaller proportion of arsenic, expressed as metallic, than were stated on

the label. The Ansbacher's Ansbor dust was found to contain less calcium arsenate and calcium arsenite combined, and more inert ingredients than were declared on the label. The labeling of the latter product listed bordeaux mixture as an active ingredient; whereas the bordeaux mixture was not all active but only the copper contained therein was active.

On June 6, 1939, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Ansbacher-Siegle Corporation, Brooklyn, N. Y., alleging shipment in interstate commerce on or about April 22, May 27, June 10, and July 19, 1938, from New York, N. Y., into the States of North Carolina, New Jersey, and Maryland, of one shipment of Ansbacher's Ansbor and three shipments of Ansbacher's Ansbor Dust that were adulterated and misbranded in violation of the Insecticide Act of 1910.

Ansbacher's Ansbor was alleged to be adulterated in that the statements, "76.8% Active Ingredients:—(not less than 70.0% Calcium Arsenate and Calcium Arsenite, and not less than 6.8% Copper Sulphate). Inert ingredients not more than 23.2%, Arsenic (as metallic) not less than 26.0%," borne on the label, represented that the standard and quality of the article were such that it contained not less than 76.8 percent of active ingredients, not less than 70 percent of combined calcium arsenate and calcium arsenite, not more than 23.2 percent of inert ingredients, and not less than 26 percent of arsenic, expressed as metallic; whereas the strength and purity of the article fell below such standard. This product was alleged to be misbranded in that the above-quoted statements were false and misleading, and that by reason of said statements, it was labeled so as to deceive and mislead purchasers, since it contained smaller proportions of active ingredients and combined calcium arsenate and calcium arsenite, a larger proportion of inert ingredients, and a smaller proportion of arsenic, expressed as metallic, than were stated on the label.

Ansbacher's Ansbor Dust, in each of the three shipments of this product, was alleged to be adulterated in that the statements, "Active Ingredients—Calcium Arsenate and Calcium Arsenite—not less than 45.0%, Dry Bordeaux Mixture—not less than 6.0%, Inert Ingredients—not more than 49.0%," borne on the label, represented that the standard and quality of the article were such that it contained 45 percent of calcium arsenate and calcium arsenite combined, that it contained not more than 49 percent of inert ingredients, and that all of the bordeaux mixture was active; whereas the article contained less than 45 percent of calcium arsenate and calcium arsenite combined and more than 49 percent of inert ingredients, and all of the bordeaux mixture was not active, but only the copper in the bordeaux mixture was active. This product was alleged to be misbranded in that the above-quoted statements, borne on the label, were false and misleading, and by reason of the said statements, it was labeled so as to deceive and mislead purchasers, since it contained less than 45 percent of calcium arsenate and calcium arsenite combined, and more than 49 percent of inert ingredients, and all of the bordeaux mixture was not active.

On February 7, 1940, a plea of guilty was entered and a fine of \$400 was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1734. Adulteration and misbranding of Niagara Vegetable Garden Dust or Spray, Niagara Suspenso Lead Arsenate, and Niagara Copotex. U. S. v. Niagara Sprayer & Chemical Co., Inc. Pleas of guilty. Fines, \$200 and \$200. (I. & F. Nos. 2143, 2155. Sample Nos. 35220-D, 48937-D, 48961-D, 52279-D, 54275-D, 55349-D.)

The Vegetable Garden Dust or Spray contained less tricalcium arsenate, less copper, less arsenic (as metallic), and more inert ingredients than were stated on the label. The Suspenso Lead Arsenate contained more arsenic (as metallic) in water-soluble form than was claimed on its label, and it was also found to be injurious to vegetation when used as directed. The Copotex was found to contain smaller proportions of monohydrated copper sulfate, of copper (as metallic), and of the equivalent in copper sulfate crystals, and a larger proportion of inert ingredients than those declared on the label.

On August 21 and October 16, 1939, the United States attorney for the Western District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court two informations against the Niagara Sprayer & Chemical Co., Inc., Middleport, N. Y., alleging shipment in interstate commerce on or about April 25 and July 8, 1938, and March 28 and May 1, 1939, from Middleport, N. Y., into the States of Massachusetts, Pennsylvania, and

Michigan, of quantities of Niagara Vegetable Garden Dust or Spray, Niagara Suspenso Lead Arsenate, and Niagara Copotex, which were adulterated and misbranded within the meaning of the Insecticide Act of 1910.

The Vegetable Garden Dust or Spray, in both shipments, was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Active Ingredients Tri-Calcium Arsenate not less than 21.0%, Copper of Bordeaux not less than 8.6%, Inert Ingredients not over 70.4 (total) 100 Arsenic (as metallic) not less than 7.8%."

It was alleged to be misbranded in that the above-quoted statements, borne on the label, were false and misleading, and it was labeled so as to deceive and mislead purchasers, since it contained less than 21 percent of tricalcium arsenate, less than 8.6 percent of copper, less than 7.8 percent of total arsenic (as metallic), and more than 70.4 percent of inert ingredients.

The Suspenso Lead Arsenate was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Arsenic as metallic in water soluble forms not more than .5%." It was alleged to be adulterated further, since it contained a substance or substances that would be injurious to vegetation when used as directed.

It was alleged to be misbranded in that the statement "Arsenic as metallic in water soluble forms not more than .5%" was false and misleading, and the article was labeled so as to deceive and mislead purchasers, since it contained arsenic, as metallic, in water-soluble forms in a proportion greater than 0.5 percent.

The Copotex was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Monohydrated Copper Sulphate not less than 20.00%, Copper (as metallic) not less than 7.00% (Equivalent in Copper Sulphate Crystals 27.4%), Inert Ingredients not over 62.50%."

The Copotex was alleged to be misbranded in that the above-quoted statements were false and misleading, and the article was labeled so as to deceive and mislead purchasers, since it contained monohydrated copper sulfate in a proportion less than 20 percent, copper (as metallic) in a proportion less than 7 percent, the equivalent in copper sulfate crystals in a proportion less than 27.4 percent, and inert ingredients in a proportion more than 62.50 percent.

On January 8, 1940, pleas of guilty were entered and a fine of \$200 in each case was imposed, a total of \$400.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1735. Adulteration and misbranding of Termox Roach Destroyer. U. S. v. Termo Chemical Co. Plea of guilty. Fine, \$75. (I. & F. No. 2129. Sample Nos. 8734-D, 22133-D.)

Both shipments of this product contained inert ingredients in excess of the percentages declared on the labels. One shipment was deficient in borax and contained no sodium fluoride, a declared ingredient. In the other shipment a portion was deficient in borax and contained no sulfur, a declared ingredient; the remaining portion of this shipment contained no sodium fluoride nor sulfur, declared ingredients. The latter shipment was also misbranded in certain other respects.

On August 10, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Termo Chemical Co., a corporation, Chicago, Ill., alleging shipment in violation of the Insecticide Act of 1910, on or about February 18 and July 18, 1938, from Chicago, Ill., into the States of Michigan and Wisconsin, of quantities of Termox Roach Destroyer which was an adulterated and misbranded insecticide.

The article in both shipments was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, (shipment of July 18, 1939) "Active Ingredients Pyrethrum Flowers 7%, Sodium Florite 8%, Sulphur 20%, Borax 25%, Inert Ingredients 40%," and (shipment of February 18, 1938) "Active Ingredients Pyrethrum Flowers 7%, Sodium Florite 8%, Borax 25%, Inert Ingredients 60%."

The article in both shipments was alleged to be misbranded in that the statements, "Active Ingredients Pyrethrum Flowers 7%, Sodium Florite 8%, Borax 25%, Inert Ingredients 60%," borne on the label in the shipment of February 18, 1938, and the statements, "Active Ingredients Pyrethrum Flowers 7%, Sodium Florite 8%, Sulphur 20%, Borax 25%, Inert Ingredients 40%,"

borne on the labels in the shipment of July 18, 1938, were false and misleading, and by reason thereof the article was labeled so as to deceive and mislead purchasers, since (in the former shipment) it contained no sodium fluoride, and less than 25 percent of borax, and did contain more than 60 percent of inert ingredients and (in the latter shipment) a portion contained a combination of powdered pyrethrum flowers, sodium fluoride, and borax as the active ingredients, but contained less than 25 percent of borax, and no sulfur, and did contain more than 40 percent of inert ingredients, and the remaining portion of this shipment contained a combination of powdered pyrethrum flowers and borax as the active ingredients, but contained no sodium fluoride nor sulfur, and did contain more than 40 percent of inert ingredients. The article in the shipment of July 18, 1938, was alleged to be misbranded further in that the statements, "But harmless to Pets and People * * * It is not poisonous to people or to household pets," borne on all labels of that shipment, and the statements, "Termox Roach Destroyer Kills Water Bugs Kills Roaches If Used As Directed Sure Death to Roaches * * * Uses: The roach likes Termox—but Termox kills the roach—and its cousin, the water bug. Once eaten and tracked into the nests by their feet, the young will eat Termox and likewise are destroyed. Termox is deadly to roaches. * * * Directions: Punch holes in top of can. Then shake Termox powder thoroughly and carefully around sinks, pipes, counters, shelves, under and into drawers and into all cracks, crevices, etc. Because of the tendency of all pests to hide and breed, it may require several applications of Termox to destroy them. Even though you may be rid of roaches and water bugs it is advisable to keep a little powder dusted around their haunts, as a constant protection against those that may enter from the outside. A Destroyer A preventive," borne on the labels of a portion of this shipment, were false and misleading, and by reason thereof the article was labeled so as to deceive and mislead purchasers, since in the said shipment it was poisonous and a portion thereof would not kill roaches or water bugs when used as directed.

On November 14, 1939, a plea of guilty was entered and a fine of \$75 was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1736. Misbranding of G. D. Cleaning Powder and Kemiko 5 in 1. U. S. v. Kemiko Manufacturing Co. Plea of guilty. Fine, \$100. (I. & F. No. 2100. Sample Nos. 62578-C, 12107-D, 29746-D, 29747-D.)

The G. D. Cleaning Powder was falsely represented to be safe and nontoxic, to be effective to kill all odors and all germs, and to sterilize when used as directed. The label for the shipment of February 9, 1938, also failed to bear the required ingredient statements. The Kemiko 5 in 1 was falsely represented to be a preventative of contagion, to have full germ-killing powers, and to be effective as a remover of all odors, as a sterilizer, and as a disinfectant in the dilution specified.

On June 2, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Kemiko Manufacturing Co., a corporation, Irvington, N. J., alleging shipment in interstate commerce, on or about February 9, 1937, and February 9, February 24, and April 15, 1938, from Irvington, N. J., into the States of New York and Pennsylvania of quantities of G. D. Cleaning Powder (2 shipments) and Kemiko 5 in 1 (2 shipments) that were misbranded fungicides within the meaning of the Insecticide Act of 1910.

The G. D. Cleaning Powder in each shipment was alleged to be misbranded in that the statements, "Germicide, Detergent, Cleaning Powder, Deodorizes, Disinfects Cleans Kills Germs A Sterilizing Agent all results in one operation Removes All Odors Directions For feeding utensils, pots, pans, glassware, etc. Wash with solution of two tablespoons of G. D. to each gallon of hot water. For dog, cat and bird cages, floors and walls of wood, tile, linoleum, cement, composition or metal surfaces. Wash with solution of a heaping tablespoon of G. D. to each gallon of water. For painted and varnished surfaces. Wash with solution of one tablespoon of G. D. to each gallon of water but use only tepid or cold water. Do not use hot water or more than quantity specified. For glassware, enamel-ware, aluminum, pottery-ware, etc. Wash with a solution of one tablespoon of G. D. to each gallon of hot water. For wash stands, bath tubs, toilets, etc. Wash with solution of two tablespoons of G. D. to each gallon of hot water. * * * G. D. solution should be saved after using. Used solutions are suitable for disinfecting, deodorizing and cleaning garbage cans and

runways. * * * Disinfects—"G. D." is widely used in dog and cat hospitals, kennels, catteries and by veterinarians, where an effective disinfectant is vitally essential. Kills Germs—"G. D." will kill germs in the presence of organic matter, assuring healthful surroundings. * * * Sterilizing Agent—"G. D." may be used effectively for the sterilization of instruments, hospital equipment, pots and pans. It is absolutely safe and efficient. * * * Economical—"G. D." is economical because it cleans, disinfects, removes odors, kills germs and sterilizes. All these five functions in one operation. It is the only known product of its type on the market. Contents of this package should make at least sixteen gallons of "G. D." solution. * * * To sterilize laboratory instruments, glassware, microscopic slides, centrifuge tubes, etc. Use $\frac{1}{2}\%$ ($\frac{3}{4}$ oz. G. D. to gallon of water by weight) solution at a temperature of 140° F. Soak for five minutes. To sterilize feeding utensils, etc. Use two tablespoons G. D. to each gallon of hot water. Soak for five minutes. * * * Safe—"G. D." is safe because it is non-toxic to humans, animals and birds," borne on the label, were false and misleading and the article was labeled so as to deceive and mislead purchasers since it would not destroy all odors, would not kill all germs, would not sterilize, and would not disinfect when used as directed; and it was not non-poisonous and was not safe under all conditions. The lot shipped February 9, 1938, was misbranded further in that it consisted partially of an inert substance, namely, sodium chloride, and the name and the percentage amount thereof were not stated plainly and correctly on the label: nor in lieu thereof were the name and the percentage amount of each substance or ingredient having fungicidal (bactericidal) properties, and the total percentage of the inert substances so present therein, stated plainly and correctly on the label.

The Kemiko 5 in 1 (both shipments) was alleged to be misbranded in that the statements, "Kemiko 5 in 1 * * * Kills Germs Disinfects Removes Odors A Sterilizing Agent * * * Removes all odors. [folder] Disinfects * * * Kills Germs Sterilizing Agent. A little 5 in 1 in water as a wash or spray makes everything 'Hospital Clean' * * * 5 in 1 was developed by scientists to be more than a cleaner—it cleans, disinfects and deodorizes all in one operation. It is manufactured under patent and is the only product of its kind on the market. For proper cleaning of bird cages, bottoms, perches, swings, feed and water cups, wash thoroughly in a solution of hot water, using a heaping teaspoonful of 5 in 1 in two quarts of water. * * * Use one heaping tablespoonful of 5 in 1 to two quarts of water to spray or wash cage rooms, cages, shipping crates, whelping boxes, pens, and runs (dirt, grass, concrete, gravel, cinder etc.). An ordinary sprinkling can may be used for sprinkling runs. 5 in 1 is most efficient in hot water but on painted or varnished surfaces use cold or lukewarm water only. Hot water without anything in it is harmful to paint and varnish. Sterilize feed and water pans by soaking for five minutes in a hot 5 in 1 solution. Use same amount of 5 in 1 as directed above. * * * and is an efficient antiseptic disinfectant with full germ killing powers * * * Washing and sterilizing as well as deodorizing babies' bottles, clothes, and diapers. Washing and sterilizing dishes, especially during sickness, to prevent contagion. One heaping tablespoonful of 5 in 1 in two quarts of hot water will take care of all above conditions," borne on the label, were false and misleading, and it was labeled so as to deceive and mislead purchasers, since it would not prevent contagion, it did not have full germ-killing powers, it would not kill all germs, it would not remove all odors, it would not make everything 'hospital clean,' it was not a sterilizing agent, it would not sterilize, and it was not an effective disinfectant in the dilution specified.

The G. D. Cleaning Powder (both shipments) was also alleged to be misbranded under the Food and Drugs Act as amended, as reported in notices of judgment published under that act.

On February 1, 1940, a plea of guilty was entered and a fine of \$100 was imposed for violation of both acts.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1737. Misbranding of Ritz Beer Coil Cleaning Compound, Ritz Coal Tar Disinfectant, Coil Cleaning Compound, Ritz Glassware Sterilizer, Ritz Deodorant Disinfectant, Ritz Pine Disinfectant, and Ritz Glass Sterilizer. U. S. v. Walter L. Schwartz (Ritz Chemical Co.). Pleas of guilty. Combined fine, \$140; and a further fine of \$1,260 which was suspended upon probation for 2 years. (I. & F. Nos. 1835, 2124. Sample Nos. 30431-B, 25685-D, 25712-D, 30349-D, 30359-D, 30360-D, 30362-D, 30363-D, 30365-D.)

The Beer Coil Cleaning Compound was falsely represented to contain no lye, and to be effective to sterilize glassware and to kill all bacteria germs when

used as directed. Its label also failed to bear an ingredient statement as required by law. The label for the Coal Tar Disinfectant, the Coil Cleaning Compound, the Deodorant Disinfectant, and the Pine Disinfectant did not bear ingredient statements as required by law. The Coal Tar Disinfectant was falsely represented to possess a higher phenol coefficient and the Deodorant Disinfectant possessed a lower phenol coefficient than that stated on the label. The cans containing the Glassware Sterilizer were found to be short of the declared weight and those containing the Deodorant Disinfectant were short of the declared volume. The labels for the Glassware Sterilizer, the Deodorant Disinfectant, the Pine Tree Disinfectant, and the Glass Sterilizer bore false efficacy claims.

On November 21, 1935, and June 6, 1939, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court informations against Walter L. Schwartz, trading as the Ritz Chemical Co., Newark, N. J., alleging that on or about March 7, 1935, August 27, 1937, and May 11, June 6, July 26, September 10, and October 10, 1938, he transported in interstate commerce from Newark, N. J., into the States of New York and Pennsylvania, quantities of Ritz Beer Coil Cleaning Compound, Ritz High Coefficient Coal Tar Disinfectant (2 shipments), Coil Cleaning Compound, Ritz Glassware Sterilizer (2 shipments), Ritz Perfection Deodorant Disinfectant, Ritz Pine Tree Disinfectant, and Ritz Glass Sterilizer, which were misbranded fungicides within the meaning of the Insecticide Act of 1910.

The Beer Coil Cleaning Compound was alleged to be misbranded in that the statements, "Does not contain any lye * * * One teaspoonful to a basin of water sterilizes glassware. Quick and positive. * * * Kills all bacteria germs," were false and misleading, and the article was labeled so as to deceive and mislead purchasers since it did contain lye, namely, sodium hydroxide, and when used as directed, it would not sterilize glassware and would not kill all bacteria germs. Misbranding of this product and of the product that was designated as "Coil Cleaning Compound" was alleged in that the articles consisted partially of inert substances or ingredients, namely, substances other than sodium hydroxide and sodium carbonate, and the names and percentage amounts of the inert substances or ingredients were not stated plainly and correctly on the label; nor in lieu thereof were the names and the percentage amounts of the substances or ingredients having fungicidal (bactericidal) properties, and the total percentages of the inert substances or ingredients, stated plainly and correctly on the labels.

The Ritz High Coefficient Coal Tar Disinfectant was alleged to be misbranded in that it consisted partially of an inert substance or ingredient, namely, water, and the name and the percentage amount thereof were not stated plainly and correctly on the label; nor in lieu thereof were the names and percentage amounts of the substances or ingredients having fungicidal (bactericidal) properties, and the total percentage of the inert substance or ingredient so present therein stated plainly and correctly on the label. This product was misbranded further in that the statement "High Coefficient Coal Tar Disinfectant," with respect to one of the shipments, and the statements "High Coefficient Coal Tar Disinfectant * * * Minimum Coefficient 16 * * * Disinfectant * * * Use one part of High Coefficient to 320 parts of water," with respect to the other shipment, were false and misleading and it was labeled so as to deceive and mislead the purchaser, since it was not a high coefficient disinfectant, and the latter shipment did not have a minimum coefficient of 16 and was not an effective disinfectant in the dilution specified.

The Ritz Glassware Sterilizer was alleged to be misbranded in that the statements, "Glassware Sterilizer Cleans Sterilizes * * * Ritz Sterilizer * * * Directions To obtain a high sparkling glow use one teaspoonful of Ritz Glassware Sterilizer to a basin of water * * * Ritz is used for sterilizing * * * all kinds of Glassware. Ritz sterilizes Bar Fixtures, Drain Boards and all Tin, Zinc, Brass, Copper, Glass, Marble and Porcelain, Dishes, all around Kitchen Cleaner. * * * Ritz is packed in 5 lb. Containers," borne on the label, were false and misleading and it was labeled so as to deceive and mislead purchasers, since it would not sterilize bar fixtures, drain boards, all tin, zinc, brass, copper, glass, marble, porcelain, dishes and all around the kitchen, and the packages of the article did contain less than 5 pounds each.

The Ritz Perfection Deodorant Disinfectant was alleged to be misbranded in that it consisted partially of an inert substance or ingredient, namely, water,

and the name and percentage amount of the said substance were not stated plainly and correctly on the label; nor in lieu thereof were the name and percentage amount of each and every substance or ingredient having fungicidal (bactericidal) properties, and the total percentage of the inert substance or ingredient so present therein stated plainly and correctly on the label. This product was misbranded further in that the statements, to wit, "Coefficient 6 * * * Germicide for general use. A valuable preparation having Deodorizing, Disinfecting and Antiseptic Properties * * * Directions This Modern Finger-Tip Atomizer Spray from bottles in your Taprooms, Clubs, Restaurants, Hotel Lobby, Kitchen, Toilet, Dining Room or any public place. Repeat Spraying as long as necessary. Deodorizes While It Disinfects * * * An efficient disinfectant A Better Theatre Spray. Does not injure fabrics. Refreshes and tends to combat infection or contagion. * * * Combats and dispels obnoxious odors and vermin * * * Contents One Quart," borne on the label, were false and misleading, and the article was labeled so as to deceive and mislead purchasers, since it possessed a phenol coefficient of much less than 6, it would not disinfect rooms and objects when used as a spray of the atmosphere, it would not combat and dispel all obnoxious odors and vermin, and the net contents of each can were less than 1 quart.

The Ritz Pine Tree Disinfectant was alleged to be misbranded in that it consisted partially of an inert substance or ingredient, water, and the name and percentage amount of the said substance were not stated plainly and correctly on the label; nor in lieu thereof were the name and percentage amount of each substance or ingredient having fungicidal (bactericidal) properties, and the total percentage of the inert substance or ingredient so present therein, stated plainly and correctly on the label. This product was alleged to be misbranded further in that the statement, "Disinfectant * * * Use one part of Pine Tree to 60 parts of water," borne on the label, was false and misleading, and it was labeled so as to deceive and mislead purchasers, since it was not an effective disinfectant in the dilution specified.

The Glass Sterilizer was alleged to be misbranded in that the statements, "Glass Sterilizer, Cleans Sterilizes * * * Glassware Sterilizer * * * Ritz Sterilizer * * * Directions. To obtain high sparkling Glass, use one teaspoonful of Ritz Glassware Sterilizer to a basin of water * * * Ritz is used for sterilizing * * * all kinds of Glassware, Ritz Sterilizes Bar Fixtures, Drain Boards and all Tin, Zinc, Brass, Copper, Glass, Marble and Porcelain, Dishes * * * Ritz Sterilizes," borne on the label, were false and misleading and the article was labeled so as to deceive and mislead purchasers, since it was not a sterilizer and would not sterilize the objects and things mentioned above.

The Beer Coil Cleaning Compound and Coil Cleaning Compound also were alleged to be misbranded under the Federal Caustic Poison Act, as reported in notice of judgment No. 97 published under that act.

On January 26, 1940, these cases having been consolidated and a plea of guilty having been entered to the combined information, a fine of \$140 was imposed, and a further fine of \$1,260 was imposed but payment was suspended and the defendant was put on probation for 2 years.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1738. Misbranding of Nicostick (nicotine and fish oil soap) and adulteration and misbranding of Nicostick (nicotine and soap). U. S. v. Garden Hose Insecticide Co. Plea of guilty. Fine, \$100. (I. & F. No. 2164. Sample Nos. 54255-D, 54299-D.)

The circular shipped with the Nicostick (nicotine and fish oil soap) bore false efficacy claims and it failed to bear a correct ingredient statement, as is required by law. The strength and purity of the Nicostick (nicotine and soap) fell below the professed standard or quality under which it was sold; it contained less nicotine than was stated on the label; and the circular enclosed with the article bore false efficacy claims.

On February 6, 1940, the United States attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Garden Hose Insecticide Co., a corporation, Kalamazoo, Mich., alleging shipment in interstate commerce on or about March 29 and April 24, 1939, from Kalamazoo, Mich., into the States of Indiana and Illinois, respectively, of a quantity of Nicostick (nicotine and fish oil soap) which was a misbranded insecticide, and a quantity of Nicostick

(nicotine and soap) which was an adulterated and misbranded insecticide within the meaning of the Insecticide Act of 1910.

Both products were alleged to be misbranded in that the statements, "Kill the Bugs with your Garden Hose The 'Simplex' Garden Hose Sprayer * * * makes spraying * * * Effective * * * This gets the insects right where they love to hide. * * * Nicostick * * * Just insert a Nicostick cartridge into the cartridge chamber, attach the garden hose, turn on the water and you are ready to spray. Nicostick is an ideal and effective insecticide for the control of * * * other sucking insects. * * * To kill lice and mites in poultry houses spray with Nicostick or rub cartridge on roosts," contained in the circulars accompanying both products and the statement "Nicotine as Alkaloid 40%," borne on the carton containing the Nicostick (nicotine and soap), were false and misleading; and that by reason thereof they were labeled so as to deceive and mislead purchasers, since they would not control all sucking insects and would not control lice and mites in poultry houses when used as directed, and Nicostick (nicotine and soap) contained less than 40 percent of nicotine as alkaloid. The Nicostick (nicotine and fish oil soap) was alleged to be misbranded further in that it consisted partially of inert substances or ingredients and the name and percentage amount of each and every inert substance or ingredient were not stated plainly and correctly on the label; nor in lieu thereof were the name and the percentage amount of each substance or ingredient having insecticidal properties, and the total percentage of the inert substances or ingredients so present therein stated plainly and correctly on the label.

The Nicostick (nicotine and soap) was alleged to be adulterated in that the statement "Nicotine as alkaloid 40%," borne on the label, represented that the standard and quality of the article were such that it contained nicotine as alkaloid in a proportion of not less than 40 percent; whereas its strength and purity fell below the professed standard and quality under which it was sold in that it contained nicotine as alkaloid in a proportion less than 40 percent.

On February 21, 1940, a plea of guilty was entered and a fine of \$100 was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1739. Misbranding of Slip-Easy Hen House Spray and Slip-Easy Deodorant. U. S. v. Riverside Chemical Co. Plea of nolo contendere. Fine, \$25, which was later suspended. (I. & F. No. 2150. Sample Nos. 52087-D, 52088-D.)

The labeling of the Slip-Easy Hen House Spray bore false and misleading representations regarding its efficacy in the control of certain insects. The containers for the Slip-Easy Deodorant were found to be short in measure, and the label failed to bear the ingredient statements required by law.

On September 18, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Riverside Chemical Co., a corporation, North Tonawanda, N. Y., alleging shipment in interstate commerce on or about February 15, 1939, from North Tonawanda, N. Y., into the State of Pennsylvania of a quantity of Slip-Easy Hen House Spray that was a misbranded insecticide and fungicide, and of a quantity of Slip-Easy Deodorant that was a misbranded fungicide, within the meaning of the Insecticide Act of 1910.

The Slip-Easy Hen House Spray was alleged to be misbranded in that the statements, "Slip-Easy * * * Hen House Spray Directions Spray the interior of the poultry house, dropping boards and roosts with Slip-Easy Hen House Spray, it will rid the poultry house of lice, mites, flies, etc. To keep your poultry houses in a sanitary condition use Slip-Easy Hen House Spray," were false and misleading, and the article was labeled so as to deceive and mislead purchasers, since when used as directed, it would not rid the poultry house of lice, flies, et cetera, would not rid the poultry house of mites with a single application, and would not disinfect the hen house.

The Slip-Easy Deodorant was alleged to be misbranded in that the statement "1 Gallon," borne on the label, was false and misleading, and the article was labeled so as to deceive and mislead purchasers, since each of the cans did not contain 1 gallon of the article but did contain a smaller amount. This product was alleged to be misbranded further in that it consisted partially of an inert substance or ingredient, namely, water, and the name and percentage amount thereof were not stated plainly and correctly on the label; nor in lieu thereof were the name and percentage amount of each and every substance or

ingredient having fungicidal (bactericidal) properties, and the total percentage of the inert substances or ingredients, stated plainly and correctly on the label.

On January 8, 1940, a plea of nolo contendere was entered and a fine of \$25 was imposed. On January 23, 1940, the court ordered that payment of the fine be suspended.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1740. Misbranding of V. E. T. Skin Remedy. U. S. v. George T. Lambert, David Pereira, and George D. Lambert (The Crescent-Kelvan Co.). Pleas of nolo contendere. Fines, \$250. (I. & F. No. 2099. Sample No. 29929-D.)

The labeling of this product bore false and misleading representations regarding its effectiveness in the control of certain insects, and it also failed to declare the inert ingredients, as required by law.

On April 14, 1939, the United States attorney for the Eastern District of Pennsylvania filed an information against George T. Lambert, David Pereira, and George D. Lambert, trading as the Crescent-Kelvan Co., a business trust, Philadelphia, Pa., alleging shipment by said defendants on or about June 10, 1938, from the State of Pennsylvania into the State of New Jersey, of a quantity of V.E.T. Skin Remedy which was a misbranded insecticide within the meaning of the Insecticide Act of 1910.

The article was alleged to be misbranded in that it consisted partially of inert substances or ingredients, namely, water and alcohol, which do not prevent, destroy, repel, or mitigate insects and the name and percentage amount of each inert substance or ingredient were not stated plainly and correctly on the label; nor in lieu thereof were the name and percentage amount of each substance or ingredient of the article having insecticidal properties and the total percentage of the inert substances or ingredients so present therein stated plainly and correctly on the label. It was alleged to be misbranded further in that the statement "Skin Remedy * * * For * * * Mange," borne on the bottle label, was false and misleading and by reason thereof it was labeled so as to deceive and mislead the purchaser since the said statement represented that it would be an effective treatment or skin remedy for all varieties of mange; whereas it would not be an effective treatment or skin remedy for all varieties of mange.

The information also charged misbranding of this article and adulteration and misbranding of various drug products shipped by the defendants in violation of the Food and Drugs Act, as reported in notice of judgment No. 30990 published under that act.

On December 8, 1939, the defendants entered pleas of nolo contendere. On January 5, 1940, the court imposed a fine of \$250 for violation of both acts, said fine to be apportioned equally among the three defendants.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1741. Adulteration and misbranding of insect powder. U. S. v. Joseph A. Tumbler (J. A. Tumbler Laboratories). Plea of guilty. Fine, \$25 and costs. (I. & F. No. 2157. Sample No. 51644-D.)

This product contained a smaller percentage of active ingredients than that stated on the label; and a mixture of insect powder, cube root powder, and borax had been substituted for insect powder. The label also failed to bear the ingredient statements required by law.

On October 11, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joseph A. Tumbler, trading as the J. A. Tumbler Laboratories at Baltimore, Md., alleging shipment in interstate commerce on or about February 16, 1939, from Baltimore, Md., into the State of Pennsylvania, of a quantity of Lehrman's Insect Powder which was a misbranded insecticide in violation of the Insecticide Act of 1910.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "100% Active Ingredients."

It was alleged to be misbranded in that the statements, "Insect Powder * * * 100% Active Ingredients" were false and misleading, and in that it was labeled so as to deceive and mislead purchasers, since it consisted of active ingredients in a proportion of less than 100 percent, and it did not consist completely of insect powder, but did consist of insect powder (pyrethrum powder), powdered cube root, and borax. It was alleged to be misbranded further in that it consisted partially of inert substances or ingredients, and the name and percentage amount thereof were not stated plainly and correctly on the label; nor in lieu

thereof were the name and percentage amount of each substance or ingredient having insecticidal properties, and the total percentage of the inert substances or ingredients, stated plainly and correctly on the label.

On January 16, 1940, a plea of guilty was entered and a fine of \$25 and costs was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1742. Misbranding of Scientific Fly Spray. U. S. v. All-Nu Products Co. Plea of guilty. Fine, \$100. (I. & F. No. 2083. Sample No. 16151-D.)

The label for this product bore false efficacy claims.

On March 2, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the All-Nu Products Co., a corporation, Camden, N. J., alleging shipment in interstate commerce on or about February 12, 1938, from Camden, N. J., into the State of Louisiana, of a quantity of Scientific Fly Spray which was a misbranded insecticide within the meaning of the Insecticide Act of 1910.

The article was alleged to be misbranded in that the statements, "Scientific Fly Spray Kills Flies, Mosquitoes, moths * * * Directions: For flies * * * close doors and windows and spray towards ceiling (spray greater quantities for larger rooms) until room is well filled with fine mist. Sweep up fallen insects and destroy. Repeat operation when necessary," were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead purchasers, since it was not effective to kill flies when used as directed.

On February 19, 1940, a plea of guilty was entered and a fine of \$100 was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1743. Misbranding of formaldehyde. U. S. v. Middlebrooke Lancaster, Inc. Plea of guilty. Fine, \$50. (I. & F. No. 2147. Sample No. 47348-D.)

This product contained inert ingredients which were not declared on the label as required by the law.

On December 27, 1939, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Middlebrooke Lancaster, Inc., Brooklyn, N. Y., alleging shipment by the said company in interstate commerce on or about March 11, 1939, from the State of New York into the State of Maryland, of a quantity of formaldehyde which was a misbranded fungicide within the meaning of the Insecticide Act of 1910.

The article was alleged to be misbranded in that it consisted partially of inert substances or ingredients, namely, water and methyl alcohol, and the name and percentage amount of each of said inert substances were not stated on the label; nor in lieu thereof were the name and percentage amount of the substance or ingredient having fungicidal (bactericidal) properties, and the total percentage of the inert substances or ingredients so present therein, stated on the label.

On January 5, 1940, a plea of guilty was entered on behalf of the defendant and a fine of \$50 was imposed.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1744. Misbranding of Shell Mil-Du-Spra. U. S. v. 10 Cans and 87 Cases of Shell Mil-Du-Spra. Consent decrees of condemnation and forfeiture. Product released to claimant for relabeling. (I. & F. Nos. 2162, 2165. Sample Nos. 56307-D, 76398-D.)

This product in each of the two shipments contained substances that would be injurious to certain vegetation. The labels bore false statements as to the percentages of active ingredients and of water, with the exception of those on the half-pint cans, which bore a false statement of the total percentage of the inert ingredients. The labels on all cans bore unwarranted efficacy claims that the product would control certain fungous diseases of plants. The quart cans in one of the shipments were found to contain less than 1 quart of the product.

On November 27 and December 26, 1939, the United States attorneys for the District of Nevada and the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 10 quart cans of Shell Mil-Du-Spra at Reno, Nev., and of 87 cases, consisting of half-pint, pint, quart, and gallon cans, of the product at Seattle, Wash.; alleging shipment on or about May 19, June 3,

and June 6, 1939, by the Shell Oil Co., from Martinez and San Francisco, Calif., respectively; and charging that the article was an adulterated and misbranded fungicide within the meaning of the Insecticide Act of 1910.

Adulteration of the article in each of the three shipments was alleged in that it was intended for use on vegetation, and it contained a substance or substances that would be injurious to such vegetation when so used. The article in all shipments was alleged to be adulterated further in that its strength and purity fell below the professed standard and quality under which it was sold, namely, (pint, quart, and gallon cans) "Active Ingredients—93.70% by weight, Water—5.30% by weight;" (half-pint cans) "Active Ingredients—93.70% by weight, Inert Ingredients—6.30% by weight."

The article in the pint cans, quart cans, and gallon cans was alleged to be misbranded in that the statements, "Active Ingredients—93.70% by weight, Water—5.30% by weight," were false and misleading and it was labeled so as to deceive and mislead the purchaser, since it contained active ingredients in a proportion less than 93.70 percent and water in a proportion greater than 5.30 percent. The article in the half-pint cans was alleged to be misbranded in that the statements, "Active Ingredients—93.70% by weight, Inert Ingredients 6.30% by weight," were false and misleading and it was labeled so as to deceive and mislead purchasers, since it contained less than 93.70 percent by weight of active ingredients, and inert ingredients in a proportion greater than 6.30 percent. The article in all of the cans was alleged to be misbranded further in that the statements, (half-pint, quart, and gallon cans) "Shell Mil-Du-Spra Soluble Garden Spray A Concentrated Copper Solution in Oil For The Spraying of Gardens, Nurseries and Ornamentals," (pint, quart, and gallon cans) "For use with Shell Nicona Sprayer in the control of Mildew, Blackspot, Peach Leaf Curl," (half-pint cans) "For Use Only with Shell Nicona Sprayer in the Control of Mildew, Blackspot, Peach Leaf Curl," borne on the labels, were false and misleading, and it was labeled so as to deceive and mislead purchasers, since it was not a concentrated copper solution and, when used as directed, it would not control mildew, blackspot, or peach leaf curl. The article in the half-pint cans was alleged to be misbranded further in that it contained inert substances or ingredients, and the name and percentage amount thereof were not stated plainly and correctly on the label; nor in lieu thereof were the name and percentage amount of each substance or ingredient having fungicidal properties, and the total percentage of the inert substances or ingredients so present therein, stated plainly and correctly upon the label. The article in the quart cans shipped to Reno, Nev., was alleged to be misbranded further in that the statement "Net Contents 1 Quart," borne on the label, was false and misleading, since each of said cans contained less than 1 quart of the article. The article shipped to Reno, Nev., was alleged to be misbranded further in that the statement, "For use with Shell Nicona Sprayer in the control of * * * Brown Rot," borne on the label, was false and misleading and the article was labeled so as to deceive and mislead purchasers, since it would not control brown rot.

On February 8 and March 20, 1940, the Shell Oil Company having appeared as claimant and having consented to the entry of decrees, judgments of condemnation and forfeiture were entered and it was ordered that the product be delivered to the claimant for relabeling, so as to comply with the Insecticide Act of 1910.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

1745. Misbranding of Hokol. U. S. v. Lionel Hockwald and Sigmund S. Hockwald (Hockwald Chemical Co.). Tried to the court. Judgment of guilty. Fine, \$250. (I. & F. No. 2075. Sample No. 18025-D.)

The label for this product bore unwarranted claims that it would act as an effective disinfectant and sterilizer and that it was without equal.

On November 22, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Lionel Hockwald and Sigmund S. Hockwald, trading as the Hockwald Chemical Co., San Francisco, Calif., alleging shipment in interstate commerce on or about June 4, 1938, from San Francisco, Calif., into the Territory of Hawaii of a quantity of Hockwald's Hokol, which was a misbranded fungicide within the meaning of the Insecticide Act of 1910.

The article was alleged to be misbranded in that the statements, "Hokol The Powerful Disinfectant with the Pleasant Odor Will Not Burn the Skin in any Dilution. Directions We recommend a five per cent dilution of Hokol

with water for all general disinfecting and cleansing purposes. In The Operating Room For Hand Solutions—* * * For General Carbolizing—Hokol is high in germicidal strength, yet low in toxicity. For Disinfecting Surgical Instruments—Hokol makes a solution in water in any proportion. It is non-corrosive to metals. In Rooms and Wards For Disinfecting Utensils and All General Disinfecting—* * * For use in washing bed-pans, linens and in the utility room. Hokol is without equal. * * * For Obstetrical Hygiene—Hokol is safe and thorough. It cannot harm human tissue," borne on the label, were false and misleading, since it would not be an effective disinfectant for operating room use, would not carbolize, would not disinfect instruments, would not be an effective disinfectant for washing bed-pans or linens, would not be an effective disinfectant in the utility room, would not be without equal, and would not be a suitable disinfectant for obstetrical hygiene.

On June 13, 1939, the defendants filed a demurrer, on the grounds that the Insecticide Act of 1910 does not properly apply to disinfectants, whose function is to kill bacteria. After the filing of arguments by defendants and by the Government, the court on September 6, 1939, overruled the demurrer without opinion. On September 8, 1939, the case came on for trial before the court, the defendant having waived a trial by jury. Most of the facts alleged in the information were stipulated, the only issues remaining being whether the term "fungi" as used in the act includes bacteria causing human disease and whether the article was a fungicide. Evidence having been introduced on behalf of the Government and the defendant, the court found the defendants guilty. On February 10, 1940, the court sentenced each defendant to pay a fine of \$125.

CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

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¹ Prosecution contested.

² Contains an opinion of the court.

